

CAUSE NO. 24-0753-C

LA VENTANA RANCH OWNERS
ASSOCIATION, INC.,
Plaintiff,

v.

JAKOB SKELTON AND STEPHANIE
CHANG A/K/A
STEPHANIESKELTON,
Defendants.

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IN THE COUNTY COURT

AT LAW NO. 1

HAYS COUNTY, TEXAS

DEFENDANTS' FIRST AMENDED ANSWER AND COUNTERCLAIM

Defendants STEPHANIE SKELTON (incorrectly sued as Stephanie Chang a/k/a Stephanie Skelton) and JAKOB SKELTON (collectively, “*Defendants*,” “*Counter-Plaintiffs*” or the “*Skeltons*”), file this their First Amended Answer to Plaintiff LA VENTANA RANCH OWNERS ASSOCIATION, INC.'s (“*Plaintiff*,” “*Counter-Defendant*,” “*La Ventana*,” or the “*ROA*”) Original Petition and Counterclaim, and in support thereof would respectfully show the Court as follows:

I. GENERAL DENIAL

1. Subject to all stipulations and admissions that may hereafter be made, Defendants assert a general denial as authorized by Rule 92 of the Texas Rules of Civil Procedure, and Defendants respectfully request that the Plaintiff be required to prove all charges and each and every material allegation against Defendants by a preponderance of the credible evidence as is required by the Constitution and laws of the State of Texas.

II. SPECIAL EXCEPTIONS

2. Defendants specially except to Plaintiffs Original Petition, paragraph 7 regarding the relief sought, and ask the Court to require Plaintiff to specify the maximum amount that

Plaintiff claims. TEX. R. CIV. PROC. 47(c).

3. Defendant specially except to paragraph 23 because Plaintiff's claim for statutory damages under TEX. PROP. CODE ANN. Sec. 202.004 is precluded by law. See *KBG Invs., LLC v. Greenspoint Prop. Owners' Ass'n*, 478 S.W.3d 111 (Tex. App.—Houston [14th Dist.], 2015) Tex. Civ. Prac. & Rem. Code § 41.004(a).

III. AFFIRMATIVE AND OTHER DEFENSES

Pleading further and in the alternative, and without limiting or waiving the foregoing general denial, and incorporating all facts alleged herein, Defendants assert the following affirmative and other defenses:

4. Defendants are not liable to Plaintiff because of waiver, consent, estoppel and/or quasi-estoppel.

5. Defendants are not liable to Plaintiff because of the doctrine of unclean hands.

6. Plaintiff's claims may be barred in whole or in part by res judicata.

7. Defendants are not liable to Plaintiff because of justification.

8. Defendants assert homestead.

9. Defendants are not liable to Plaintiff because of Plaintiff's failure to mitigate damages.

10. Plaintiff's claims may be barred in whole or in part by TEX. PROP. CODE §209.006-209.0064.

11. Defendants are not liable to Plaintiff because of discrimination. TEX. PROP. CODE § 202.004(a).

12. Defendants assert that Plaintiff's claim for statutory damages is precluded by law and by contract. See Article III, Paragraph 3.4(a) (1) of the Third Amended Declaration of Covenants, Conditions and Restrictions for La Ventana (the "**CCRs**") (providing that "[t]he

imposition of a ‘special charge’ [is] not to exceed One Hundred Dollars (\$100) per violation”).

13. Defendants are not liable to Plaintiff because Plaintiff failed to provide the notice required by TEX. PROP. CODE § 209.006, Section 10.4 of the CCRs (which requires that “[a]ny notice...shall be in writing and may be delivered either personally or by mail...[and] [i]f delivery is made by mail, it shall be...deposited in the United States mail, postage prepaid, certified mail, return receipt requested”), and/or pursuant to Attachment 1, Paragraph 5 of the La Ventana Ranch Owners’ Association, Inc. Supplemental Policies filed and recorded on February 12, 2024 (the “*Supplemental Policies*”).

14. Defendants are not liable to Plaintiff for some or all of Plaintiff’s attorney fees because (a) Plaintiff failed to comply with TEX. PROP. CODE § 209.006; and/or (b) to the extent that such fees were incurred prior to the notice required by TEX. PROP. CODE § 209.006. TEX. PROP. CODE § 209.008(a).

15. Defendants are not liable to Plaintiff because Plaintiff’s actions in initiating this lawsuit constituted arbitrary and capricious conduct in violation of TEX. PROP CODE § 202.004.

IV. FAILURE OF CONDITIONS PRECEDENT

16. Defendants submit all conditions precedent to Plaintiff’s claims have not occurred and have not been waived, excused, or satisfied. In particular Plaintiff did not perform all steps required by law or the Declaration that Plaintiff claims to rely upon nor have such conditions precedent been waived, excused, or satisfied. For example:

i) Plaintiff initiated an enforcement action without prior notice to Defendant of a board meeting at which Plaintiff’s board members would consider initiation of an enforcement action as required by TEX. PROP. CODE §209.0051;

ii) Plaintiff initiated an enforcement action without prior notice to Defendant

of a board meeting at which Plaintiff's board members would vote on initiation of an enforcement action as required by TEX. PROP. CODE §209.0051;

iii) Plaintiff initiated an enforcement action without holding a board meeting to consider initiation of an enforcement action after prior notice to Defendant as required by TEX. PROP. CODE §209.0051 and/or Paragraph 5.9 of the Fourth Amended and Restated Bylaws (the "**Bylaws**"); and

iv) Plaintiff initiated an enforcement action without holding a board meeting to vote on initiation of an enforcement action after prior notice to Defendant as required by TEX. PROP. CODE §209.0051 and/or Paragraph 5.5 of the Bylaws.

V. RULE 193.7 NOTICE

17. Pursuant to TEXAS RULE OF CIVIL PROCEDURE 193.7, Defendants give notice that all documents produced by Plaintiff in response to written discovery will be used against Plaintiff.

VI. OBJECTION TO ASSOCIATE JUDGE

18. Defendants object to the referral of this case to an associate judge for hearing a trial on the merits or presiding at a jury trial.

VII. JURY DEMAND

19. Defendants have previously demanded a jury trial and paid the jury fee, and hereby re-assert such demand.

VIII. COUNTERCLAIMS

Counter-Plaintiffs make and file these, their Counter-Claims against Counter-Defendant and in support thereof would respectfully show the Court as follows:

A. Conditions Precedent

20. All conditions precedent to these counterclaims have been performed or waived.

B. Parties

21. Counter-Plaintiffs are individuals residing in Hays County, Texas.

22. Counter-Defendant La Ventana Ranch Owners Association, Inc. is now and at all times mentioned in this counterclaim was, a Texas non-profit corporation with a principal place of business in Hays County, Texas.

C. Facts

23. Jakob and Stephanie Skeltons moved to Texas Hill Country in October 2022, with hopes of a better future for their family. They are young parents of two small boys and both are Army veterans. Both completed tours abroad and both have been given 100% disability ratings from the Department of Veterans Affairs (VA).

24. The Skeltons' home was in the La Ventana neighborhood and subject to the CCRs, a valid and enforceable contract between each homeowner and La Ventana Driftwood, LP. The CCRs provide that violations of the restrictions may result in the "imposition of a 'special charge' not to exceed One Hundred Dollars (\$100.00) per violation, to the extent permitted by applicable law" (CCR at Article III, Paragraph 3.4(a)(1)). Under Article X, Paragraph 10.3(b), the CCRs cannot be amended except by recording an instrument executed and acknowledged by both the President and Secretary of the Board setting forth the amendment and certifying that such amendment was approved by the Owners entitled to cast at least 80% of the number of votes under the Bylaws. The ROA is operating under the "Fine & Enforcement Policy" filed and recorded on February 12, 2024 (the "***Fine & Enforcement Policy***"), which purports to authorize the Board to "set fine amounts on a case-by-case basis" and to impose fines for continuing violations of "*no less than \$250.00 per month until cured.*" However, the Fine & Enforcement policy does not comply with Paragraph 10.3(b) of the CCRs and is therefore not enforceable as

a valid amendment to the CCRs.

25. La Ventana is empowered by the CCRs to conduct business on behalf of La Ventana Driftwood, LP subject to its Bylaws, the CCRs, and statutory regulations. At all times relevant hereto, the ROA operated under the Fourth Amended and Restated Bylaws (the “**Bylaws**”). The Bylaws provide in Section 5.9 that “[t]he Board may not, unless done in an open meeting for which prior notice was given to the Members pursuant to Section 5.-8 above, consider or vote on: (a) fines; (b) damage assessments; (c) the initiation of foreclosure actions; (d) the initiation of enforcement action...(h) a suspension of a right of a particular Member before the Member has an opportunity to attend a Board meeting to present the Member’s position, including any defense, on the issue...”. Although La Ventana “may adjourn a meeting and reconvene in closed executive session to consider actions involving:...pending or threatened litigation...[or] enforcement actions,” the decisions made in such executive session “must be summarized orally in general terms and placed in the written minutes within seven (7) days.” Bylaws at Section 5.5.

26. Further, Section 4.1(b) of the Bylaws provides that the members of the La Ventana board “shall abide by the La Ventana Ranch Owners’ Association Code of Conduct Policy” (the “**Code of Conduct**”). The Code of Conduct provides that “each Governing Person [of the board] shall avoid any conduct that can reasonably be deemed to constitute...discrimination based upon a person’s race, religion, national origin, ancestry, age, medical condition, marital status, physical or mental disability...or other status as a member of a protected class under applicable federal and/or state law.” The Code of Conduct also requires La Ventana to “respect the privacy of the membership” and must adhere to basic rules of conduct when using social media “in order to protect the Association’s reputation and individual Association’s representatives’ or members’

reputations, to disseminate accurate information and to foster community by moderating the tone and civility of the interactions on Social Media regarding any issue affecting or purporting to be an official position of the Association.” (Paragraph 12). Specifically, “[o]fficial communications from the Association...shall not include...[p]ersonal attacks of any kind; [c]omments that promote or constitute discrimination;...[i]dentifiable personal medical or financial information that is to be maintained as confidential; [m]alicious or false statements damaging to a person’s reputation; or [i]nformation that may compromise the safety, security, or proceedings of any legal action pertaining to the Association.” (Paragraph 12).

27. In the spring of 2023, Jakob Skelton had a conversation with the ROA’s Board President to inquire about whether his family could acquire ducks, as Stephanie’s therapist recommended them to aid in managing her medical conditions. The Skeltons and the ROA’s board members were aware that another family in the neighborhood had kept ducks. The ROA’s Board President told Jakob that it would be okay for his family to get ducks, but suggested that they get a letter from Stephanie’s therapist in case a neighbor complained.

28. The Skeltons acquired thirteen (13) ducks shortly after that conversation. For over a year, they enjoyed their ducks with no complaints or issues, even participating in community farmer’s markets to sell the eggs their ducks produced. In fact, several of the ROA’s board members regularly enjoyed and even requested duck eggs from the Skeltons.

29. In June 2024 the former property management company, Goodwin & Co, sent a “courtesy notice” via regular mail (not certified) claiming that due to a complaint from the Skeltons’ neighbor, they could only have six (6) ducks. That week, the Skeltons requested from the ROA a reasonable accommodation to keep their thirteen (13) ducks. A meeting was held with the La Ventana board, at which board members accused the Skeltons of using their veteran status

as an “excuse” to have ducks. In July 2024, La Ventana, through its attorney, requested “additional information regarding your non-observable disability and whether the ducks provide therapeutic emotional support with respect to your specific disability” and asserted that “[t]he Association does not have sufficient information to show you have a disability, or that ducks are an appropriate treatment for the same, at this time.” The letter further incorrectly asserted that the Skeltons had twenty (20) ducks.

30. In response, the Skeltons submitted a letter from Stephanie’s therapist verifying the use of the ducks for her PTSD symptoms. Without further communication or notice, and without holding an open meeting to obtain approval, in August 2024 La Ventana filed this lawsuit, attaching to it as a public document a letter from Stephanie’s therapist containing her private healthcare information.

31. Since the filing of this lawsuit, La Ventana has ostracized, attacked, and attempted to publicly humiliate the Skeltons for their disability and their ducks. In October 2024, when Stephanie decided to run for a position on the La Ventana board, La Ventana kicked Jakob Skelton off the cattle committee and sent two separate emails to the entire La Ventana community accusing the Skeltons of “willfully violat[ing] our rules” and “refus[ing] to comply, [and] offer[ing] various legal excuses as to why they should be able to maintain fowl on their property.” Unsurprisingly, Stephanie was not elected to the board.

32. After it filed this lawsuit, the ROA’s attorney sent the Skeltons a letter purporting to offer a “reasonable” accommodation that they could keep two ducks but they had to be “housed inside the main dwelling on the property” and could be outside the house only “up to two (2) times a day for a maximum amount of time not to exceed two (2) hours outside the main dwelling on the property.” This would be cruel to the animals, which require a community and outdoor

life.

33. A once-supportive neighborhood has turned against this veteran family, causing them to lose friendships and face constant harassment from La Ventana and its property management company, neighbors trespassing and photographing their property, and rumors being spread about them. They have had to install security measures in their home, as they no longer feel safe.

34. As a direct and proximate result of La Ventana's discrimination against and harassment of the Skeltons, the Skeltons felt they had no option but to put their home up for sale. This was supposed to be their dream home and their "forever" home where they could raise their children. Instead, they are being forced to leave and uproot their children due to the discriminatory actions of the ROA and its board members. Despite numerous requests that the ROA engage in discussions to resolve this matter, and despite its actual awareness that the Skeltons' home is up for sale, the ROA has refused to mediate and instead has forced the Skeltons to incur attorney's fees to defend this ridiculous lawsuit.

D. Count One – Breach of Contract

35. Counter-Plaintiffs and Counter-Defendant entered into a valid and binding contract known as the Third Amended Declaration of Covenants, Conditions and Restrictions for La Ventana (CCRs) in which Counter-Defendant agreed, *inter alia*, to comply with the terms of the CCRs, the Bylaws, and the Code of Conduct. In consideration of Counter-Defendant's promise, Counter-Plaintiffs agreed to pay assessments and comply with the neighborhood's deed restrictions, subject to exceptions. Counter-Plaintiffs have performed all the terms and conditions of the agreement, or their performance has been excused by Counter-Defendant's waiver or prior breach.

36. Counter-Defendant has failed and refused to perform the parties' agreement by demanding charges for violations that exceed the CCRs, bringing this lawsuit without complying with the governing documents and applicable law, asserting claims for the recovery of attorney's fees in violation of the governing documents and applicable law, removing Jakob Skelton from the cattle committee in violation of the Bylaws, and discriminating against and harassing the Skeltons in violation of the Bylaws.

37. As a direct and proximate result of Counter-Defendants' breach of the parties' agreement, Counter-Plaintiffs have sustained damages and incurred needless attorney's fees.

E. Count Two—Declaratory Relief

38. Counter-Plaintiffs herein incorporate the preceding paragraphs. Counter-Plaintiffs seek a declaratory judgment against Counter-Defendant under TEX. CIV. PRAC. & REM. CODE Chapter 37 (the Uniform Declaratory Judgment Act) and seek a declaration from the Court that (a) the ROA has violated Article III, Paragraph 3.4 of the CCRs by charging fines exceeding one hundred dollars per violation; (b) the Courtesy Notice sent to the Skeltons was defective under TEXAS PROPERTY CODE § 209.006; and (c) the Supplemental Policies are not enforceable because the ROA failed to comply with Paragraph 10.3(b) of the CCRs.

F. Count Three—Violations of the Texas Fair Housing Act

39. The Texas Fair Housing Act applies to the ROA and provides rights and remedies substantially equivalent to those granted under the Federal Fair Housing Amendments Act. The Texas Fair Housing Act's reasonable accommodation provision prohibits the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

40. The Skeltons are members of a protected class under the Texas Fair Housing Act because both are disabled veterans suffering from emotional disabilities. The ROA discriminated against the Skeltons by refusing to make reasonable accommodations for them. Specifically, the ROA refused to allow the Skeltons to maintain emotional support animals necessary to maintain, manage, and support Stephanie Skelton in her disability and treating them differently than other residents of the community who also keep ducks. Moreover, the ROA harassed the Skeltons because of their known disabilities as described herein and retaliated against them for exercising their fair housing rights. As a direct and proximate cause of the ROA's discrimination, harassment and retaliation, the Skeltons have sustained damages.

G. Attorney's Fees

41. Counter-Plaintiffs seek to recover all of their costs of court, expenses, and reasonable and necessary attorney's fees incurred in the prosecution of this matter pursuant to the applicable provisions of Chapters 37 and 38 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE. Counter-Plaintiffs also seek their reasonable and necessary attorney's fees incurred in any appeal.

IX. PRAYER

Defendants/Counter-Plaintiffs pray the Court that Plaintiff/Counter-Defendant's cause of action be dismissed, or that upon trial hereof, Plaintiff/Counter-Defendant take nothing in its suit against Defendants/Counter-Plaintiffs, the Court grant judgment in favor of Defendants/Counter-Plaintiffs against Plaintiff/Counter-Defendant for damages in an amount within the jurisdictional limits of the Court, together with pre-judgment interest at the maximum rate allowed by law, post-judgment interest at the legal rate, costs of court, attorney's fees, and such other and further relief to which Defendants/Counter-Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

DUBOIS, BRYANT & CAMPBELL, LLP

303 Colorado Street, Suite 2300

Austin, Texas 78701

Telephone: (512) 457-8000

Telecopier: (512) 457-8008

By: /s/ Melissa Carr

Melissa Carr

State Bar No. 24065008

mcarr@dbellp.com

ATTORNEYS FOR DEFENDANTS

JAKOB SKELTON AND STEPHANIE

SKELTON

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document has been served on the following by fax or electronic service on this 13th day of March 2025:

Adam Pugh

CAGLE PUGH

4301 Westbank Dr., Suite A150

Austin, Texas 78746

adam.pugh@caglepugh.com

ATTORNEYS FOR PLAINTIFF

LA VENTANA RANCH OWNERS

ASSOCIATION, INC.

/s/ Melissa Carr

Melissa Carr